

THE TU FIRM, APLC
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Attorneys for Defendants:
HUONG THANG NGUYEN aka HAI LE;
TU THIEN THE MOBIL INC.;
TU THE 2 CHIEU

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

US Nutrilab, a California corporation; and
Strong T. Nguyen, an individual

Plaintiffs,

v.

Huong Thanh Nguyen, aka Hai Le, an
individual; Tu Thien The Mobil Inc., aka
Tu Thien Mobil, a California corporation;
Tu The 2 Chieu, Inc., a California
corporation; Khanh Van Nguyen, an
individual; Khanh Van Nguyen dba USA
Logic; DKY LLC dba Nutricel Gold

Defendants.

Huong Thanh Nguyen, aka Hai Le, an
individual; Tu Thien The Mobil Inc., aka
Tu Thien Mobil, a California corporation;
Tu The 2 Chieu, Inc., a California
corporation;

Counterclaimants,

(Caption Continued on Next Page)

CASE NO.: 8:16-CV-00785

Complaint Filed: April 26, 2016

**DEFENDANTS' ANSWER,
AFFIRMATIVE DEFENSES,
COUNTERCLAIMS AND THIRD-
PARTY COMPLAINT AND
DEMAND FOR JURY TRIAL**

**DEMAND FOR JURY TRIAL AS
TO THE PENDENT STATE LAW
CAUSES OF ACTION**

**THIRD PARTY PLAINTIFF ALSO
HEREBY DEMANDS A TRIAL BY
JURY ON SUPPLEMENTAL
STATE LAW CLAIMS**

1 US Nutrilab, a California corporation; US
 2 Nutrilab dba Life Well; US Nutrilab dba
 3 Health First and Strong T. Nguyen, an
 individual

4 Counterclaim Defendants.

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Huong Thanh Nguyen, aka Hai Le, an
 individual; Tu Thien The Mobil Inc., aka
 Tu Thien Mobil, a California corporation;
 Tu The 2 Chieu, Inc., a California
 corporation;

Third Party Plaintiffs,

Kevin Ngo, an individual; VIETV LOS
 ANGELES, LLC, a California
 corporation; Vinashop HomeShopping, a
 Texas corporation; V247, a Texas
 corporation; Bao Hien Rong
 Vang, Inc., a California corporation;
 Hung Express Holdings Corporation dba
 Hung Express Service and Gifts, a
 California corporation; Anh Minh
 Enterprise Limited Corporation, a
 California corporation; Anh Minh Money
 Transfer, Inc., a California corporation;
 Khai Hoan Souvennirs Inc., a California
 corporation; Amerasia My-A
 Trading Corporation, a California
 corporation; Tiffany Dinh dba Van Tho
 Duong; Toan Thoi dba Toan Phuong
 Cargo; and Does 1-10

Third Party Defendants.

ANSWER

Come now defendants, HUONG THANH NGUYEN, aka HAI LE, an individual (hereinafter "LE"); TU THIEN THE MOBIL INC., aka TU THIEN MOBIL, a California corporation; TU THE 2 CHIEU, INC., a California corporation, (collectively "Defendants") by and through their undersigned counsel, hereby answers Plaintiff's Complaint and allege as follows:

Nature of Plaintiffs' Action

1. Answering Paragraph 1 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

2. Answering Paragraph 2 of the Complaint, Defendants do not have sufficient information or belief to enable them to answer said Paragraph and, on that ground, deny each and every allegation contained therein.

3. Answering Paragraph 3 of the Complaint, Defendants do not have sufficient information or belief to enable them to answer said Paragraph and, on that ground, deny each and every allegation contained therein.

4. Answering Paragraph 4 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

5. Answering Paragraph 5 of the Complaint, Defendants deny that Plaintiff was unaware of Plaintiff's prior conviction. In fact, Defendant told Plaintiff of his conviction years prior to the events leading to the subject of this litigation and yet Plaintiff still approached Defendant to advertise and distribute Cordyceps 950 on behalf of himself and his corporation. Defendants also deny that Plaintiff had ever "lent him money." Defendants also deny Plaintiffs legal conclusion that "Concealment of this material fact is itself a fraud." Defendants are unaware of any duty to disclose in this context under California law.

6. Answering Paragraph 6 of the Complaint, Defendants admits that Plaintiffs have filed a lawsuit with the stated causes of action. As to the remainder

1 of the allegations stated in this Paragraph, Defendants do not have sufficient
2 information or belief to enable them to answer said Paragraph and, on that ground,
3 deny each and every allegation contained therein.

4 **Jurisdiction And Venue**

5 7. Answering Paragraph 7 of the Complaint, Defendants do not have
6 sufficient information or belief to enable them to answer said Paragraph and, on
7 that ground, deny each and every allegation contained therein.

8 8. Answering Paragraph 8 of the Complaint, Defendants do not have
9 sufficient information or belief to enable them to answer said Paragraph and, on
10 that ground, deny each and every allegation contained therein.

11 9. Answering Paragraph 9 of the Complaint, Defendants do not have
12 sufficient information or belief to enable them to answer said Paragraph and, on
13 that ground, deny each and every allegation contained therein.

14 **Parties**

15 10. Answering Paragraph 10 of the Complaint, Defendants do not have
16 sufficient information or belief to enable them to answer said Paragraph and, on
17 that ground, deny each and every allegation contained therein.

18 11. Answering Paragraph 11 of the Complaint, Defendants do not have
19 sufficient information or belief to enable them to answer said Paragraph and, on
20 that ground, deny each and every allegation contained therein.

21 12. Answering Paragraph 12 of the Complaint, Defendants admit the
22 allegations stated in said Paragraphs.

23 13. Answering Paragraph 13 of the Complaint, Defendants admit the
24 allegations stated in said Paragraphs.

25 14. Answering Paragraph 14 of the Complaint, Defendants admit the
26 allegations stated in said Paragraphs.

1 15. Answering Paragraph 15 of the Complaint, Defendants do not have
2 sufficient information or belief to enable them to answer said Paragraph and, on
3 that ground, deny each and every allegation contained therein.

4 16. Answering Paragraph 16 of the Complaint, Defendants do not have
5 sufficient information or belief to enable them to answer said Paragraph and, on
6 that ground, deny each and every allegation contained therein.

7 17. Answering Paragraph 17 of the Complaint, Defendants do not have
8 sufficient information or belief to enable them to answer said Paragraph and, on
9 that ground, deny each and every allegation contained therein.

10 18. Answering Paragraph 18 of the Complaint, Defendants deny generally
11 and specifically each and every allegation contained therein.

12 19. Answering Paragraph 19 of the Complaint, Defendants deny generally
13 and specifically each and every allegation contained therein.

14 20. Answering Paragraph 20 of the Complaint, Defendants do not have
15 sufficient information or belief to enable them to answer said Paragraph and, on
16 that ground, deny each and every allegation contained therein.

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18 **Plaintiffs' Alleged Factual Allegations**

19 21. Answering Paragraph 21 of the Complaint, Defendants do not have
20 sufficient information or belief to enable them to answer said Paragraph and, on
21 that ground, deny each and every allegation contained therein.

22 22. Answering Paragraph 22 of the Complaint, Defendants do not have
23 sufficient information or belief to enable them to answer said Paragraph and, on
24 that ground, deny each and every allegation contained therein.

25 23. Answering Paragraph 23 of the Complaint, Defendants do not have
26 sufficient information or belief to enable them to answer said Paragraph and, on
27 that ground, deny each and every alle20.
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1 24. Answering Paragraph 24 of the Complaint, Defendants do not have
2 sufficient information or belief to enable them to answer said Paragraph and, on
3 that ground, deny each and every allegation contained therein.

4 25. Answering Paragraph 25 of the Complaint, Defendants do not have
5 sufficient information or belief to enable them to answer said Paragraph and, on
6 that ground, deny each and every allegation contained therein.

7 26. Answering Paragraph 26 of the Complaint, Defendants do not have
8 sufficient information or belief to enable them to answer said Paragraph and, on
9 that ground, deny each and every allegation contained therein.

10 27. Answering Paragraph 27 of the Complaint, Defendants do not have
11 sufficient information or belief to enable them to answer said Paragraph and, on
12 that ground, deny each and every allegation contained therein.

13 28. Answering Paragraph 28 of the Complaint, Defendants do not have
14 sufficient information or belief to enable them to answer said Paragraph and, on
15 that ground, deny each and every allegation contained therein.

16 29. Answering Paragraph 29 of the Complaint, Defendants do not have
17 sufficient information or belief to enable them to answer said Paragraph and, on
18 that ground, deny each and every allegation contained therein.

19 30. Answering Paragraph 30 of the Complaint, Defendants do not have
20 sufficient information or belief to enable them to answer said Paragraph and, on
21 that ground, deny each and every allegation contained therein.

22 31. Answering Paragraph 31 of the Complaint, Defendants do not have
23 sufficient information or belief to enable them to answer said Paragraph and, on
24 that ground, deny each and every allegation contained therein.

25 32. Answering Paragraph 32 of the Complaint, Defendants do not have
26 sufficient information or belief to enable them to answer said Paragraph and, on
27 that ground, deny each and every allegation contained therein.
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1 33. Answering Paragraph 33 of the Complaint, Defendants admit the
2 allegations stated in said Paragraph.

3 34. Answering Paragraph 34 of the Complaint, Defendants admit the
4 allegations stated in said Paragraph.

5 35. Answering Paragraph 35 of the Complaint, Defendants do not have
6 sufficient information or belief to enable them to answer said Paragraph and, on
7 that ground, deny each and every allegation contained therein.

8 36. Answering Paragraph 36 of the Complaint, Defendants do not have
9 sufficient information or belief to enable them to answer said Paragraph and, on
10 that ground, deny each and every allegation contained therein.

11 37. Answering Paragraph 37 of the Complaint, Defendants deny that
12 Plaintiff was unaware of Plaintiff's prior conviction and that Plaintiff "harbored a
13 dark secret" from him. In fact, Defendant told Plaintiff of his conviction years prior
14 to the events leading to the subject of this litigation and yet Plaintiff still
15 approached Defendant to advertise and distribute Cordyceps 950 on behalf of
16 himself and his corporation. Defendants also deny that Plaintiff had ever "lent him
17 money." As to the rest of the allegations in the Paragraph, Defendants do not have
18 sufficient information or belief to enable them to answer said Paragraph and, on
19 that ground, deny each and every allegation contained therein.

20 38. Answering Paragraph 38 of the Complaint, Defendants do not have
21 sufficient information or belief to enable them to answer said Paragraph and, on
22 that ground, deny each and every allegation contained therein.

23 39. Answering Paragraph 39 of the Complaint, Defendants deny generally
24 and specifically each and every allegation contained therein.

25 40. Answering Paragraph 40 of the Complaint, Defendants deny generally
26 and specifically each and every allegation contained therein.
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1 41. Answering Paragraph 41 of the Complaint, Defendants deny generally
2 and specifically each and every allegation contained therein.

3 42. Answering Paragraph 42 of the Complaint, Defendants admit the
4 allegations stated in said Paragraph.

5 43. Answering Paragraph 43 of the Complaint, Defendants deny generally
6 and specifically each and every allegation contained therein.

7 44. Answering Paragraph 44 of the Complaint, Defendants admit the
8 allegations stated in said Paragraph.

9 45. Answering Paragraph 45 of the Complaint, Defendants do not have
10 sufficient information or belief to enable them to answer said Paragraph and, on
11 that ground, deny each and every allegation contained therein.

12 46. Answering Paragraph 46 of the Complaint, Defendants do not have
13 sufficient information or belief to enable them to answer said Paragraph and, on
14 that ground, deny each and every allegation contained therein.

15 47. Answering Paragraph 47 of the Complaint, Defendants do not have
16 sufficient information or belief to enable them to answer said Paragraph and, on
17 that ground, deny each and every allegation contained therein.

18 48. Answering Paragraph 48 of the Complaint, Defendants do not have
19 sufficient information or belief to enable them to answer said Paragraph and, on
20 that ground, deny each and every allegation contained therein.

21 49. Answering Paragraph 49 of the Complaint, Defendants do not have
22 sufficient information or belief to enable them to answer said Paragraph and, on
23 that ground, deny each and every allegation contained therein.

24 50. Answering Paragraph 50 of the Complaint, Defendants do not have
25 sufficient information or belief to enable them to answer said Paragraph and, on
26 that ground, deny each and every allegation contained therein.
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1 51. Answering Paragraph 51 of the Complaint, Defendants do not have
2 sufficient information or belief to enable them to answer said Paragraph and, on
3 that ground, deny each and every allegation contained therein.

4 52. Answering Paragraph 52 of the Complaint, Defendants deny generally
5 and specifically each and every allegation contained therein.

6 53. Answering Paragraph 53 of the Complaint, Defendants deny generally
7 and specifically each and every allegation contained therein.

8 54. Answering Paragraph 54 of the Complaint, Defendants deny generally
9 and specifically each and every allegation contained therein.

10 55. Answering Paragraph 55 of the Complaint, Defendants do not have
11 sufficient information or belief to enable them to answer said Paragraph and, on
12 that ground, deny each and every allegation contained therein.

13 56. Answering Paragraph 56 of the Complaint, Defendants do not have
14 sufficient information or belief to enable them to answer said Paragraph and, on
15 that ground, deny each and every allegation contained therein.

16 57. Answering Paragraph 57 of the Complaint, Defendants do not have
17 sufficient information or belief to enable them to answer said Paragraph and, on
18 that ground, deny each and every allegation contained therein.

19 58. Answering Paragraph 58 of the Complaint, Defendants deny generally
20 and specifically each and every allegation contained therein.

21 59. Answering Paragraph 59 of the Complaint, Defendants deny generally
22 and specifically each and every allegation contained therein.

23 60. Answering Paragraph 60 of the Complaint, Defendants deny generally
24 and specifically each and every allegation contained therein.

25 61. Answering Paragraph 61 of the Complaint, Defendants deny generally
26 and specifically each and every allegation contained therein.

1 62. Answering Paragraph 62 of the Complaint, Defendants deny generally
2 and specifically each and every allegation contained therein.

3 63. Answering Paragraph 63 of the Complaint, Defendants deny generally
4 and specifically each and every allegation contained therein.

5 64. Answering Paragraph 64 of the Complaint, Defendants do not have
6 sufficient information or belief to enable them to answer said Paragraph and, on
7 that ground, deny each and every allegation contained therein.

8 65. Answering Paragraph 65 of the Complaint, Defendants deny generally
9 and specifically each and every allegation contained therein.

10 66. Answering Paragraph 66 of the Complaint, Defendants do not have
11 sufficient information or belief to enable them to answer said Paragraph and, on
12 that ground, deny each and every allegation contained therein.

13 67. Answering Paragraph 67 of the Complaint, Defendants do not have
14 sufficient information or belief to enable them to answer said Paragraph and, on
15 that ground, deny each and every allegation contained therein.

16 68. Answering Paragraph 68 of the Complaint, Defendants deny generally
17 and specifically each and every allegation contained therein.

18 69. Answering Paragraph 69 of the Complaint, Defendants deny generally
19 and specifically each and every allegation contained therein.

20 70. Answering Paragraph 70 of the Complaint, Defendants deny generally
21 and specifically each and every allegation contained therein.

22 71. Answering Paragraph 71 of the Complaint, Defendants deny generally
23 and specifically each and every allegation contained therein.

24 72. Answering Paragraph 72 of the Complaint, Defendants deny generally
25 and specifically each and every allegation contained therein.

26 73. Answering Paragraph 73 of the Complaint, Defendants deny generally
27 and specifically each and every allegation contained therein.

28 74. Answering Paragraph 74 of the Complaint, Defendants deny generally
and specifically each and every allegation contained therein.

1 73. Answering Paragraph 73 of the Complaint, Defendants do not have
2 sufficient information or belief to enable them to answer said Paragraph and, on
3 that ground, deny each and every allegation contained therein.

4 74. Answering Paragraph 74 of the Complaint, Defendants do not have
5 sufficient information or belief to enable them to answer said Paragraph and, on
6 that ground, deny each and every allegation contained therein.

7 75. Answering Paragraph 75 of the Complaint, Defendants do not have
8 sufficient information or belief to enable them to answer said Paragraph and, on
9 that ground, deny each and every allegation contained therein.

10 76. Answering Paragraph 76 of the Complaint, Defendants deny generally
11 and specifically each and every allegation contained therein.

12 77. Answering Paragraph 77 of the Complaint, Defendants deny generally
13 and specifically each and every allegation contained therein.

14 78. Answering Paragraph 78 of the Complaint, Defendants deny generally
15 and specifically each and every allegation contained therein.

16 79. Answering Paragraph 79 of the Complaint, Defendants deny generally
17 and specifically each and every allegation contained therein.

18
19 **Plaintiff's First Claim for Relief**

20 81. Answering Paragraph 81 of the Complaint, Defendants deny generally
21 and specifically each and every allegation contained therein.

22 82. Answering Paragraph 82 of the Complaint, Defendants do not have
23 sufficient information or belief to enable them to answer said Paragraph and, on
24 that ground, deny each and every allegation contained therein.

25 83. Answering Paragraph 83 of the Complaint, Defendants deny generally
26 and specifically each and every allegation contained therein.

27 84. Answering Paragraph 84 of the Complaint, Defendants deny generally
28 and specifically each and every allegation contained therein.

1 85. Answering Paragraph 85 of the Complaint, Defendants deny generally
2 and specifically each and every allegation contained therein.

3 86. Answering Paragraph 86 of the Complaint, Defendants deny generally
4 and specifically each and every allegation contained therein.

5 87. Answering Paragraph 87 of the Complaint, Defendants deny generally
6 and specifically each and every allegation contained therein.

7 88. Answering Paragraph 88 of the Complaint, Defendants deny generally
8 and specifically each and every allegation contained therein.

9 89. Answering Paragraph 89 of the Complaint, Defendants deny generally
10 and specifically each and every allegation contained therein.

11
12 **Plaintiff's Second Claim for Relief**

13 91. Answering Paragraph 91 of the Complaint, Defendants deny generally
14 and specifically each and every allegation contained therein.

15 92. Answering Paragraph 92 of the Complaint, Defendants deny generally
16 and specifically each and every allegation contained therein.

17 93. Answering Paragraph 93 of the Complaint, Defendants deny generally
18 and specifically each and every allegation contained therein.

19 94. Answering Paragraph 94 of the Complaint, Defendants deny generally
20 and specifically each and every allegation contained therein.

21 95. Answering Paragraph 95 of the Complaint, Defendants deny generally
22 and specifically each and every allegation contained therein.

23
24 **Plaintiff's Third Claim for Relief**

25 97. Answering Paragraph 97 of the Complaint, Defendants deny generally
26 and specifically each and every allegation contained therein.

27 98. Answering Paragraph 98 of the Complaint, Defendants deny generally
28 and specifically each and every allegation contained therein.

1 99. Answering Paragraph 99 of the Complaint, Defendants deny generally
2 and specifically each and every allegation contained therein.

3 100. Answering Paragraph 100 of the Complaint, Defendants deny
4 generally and specifically each and every allegation contained therein.

5 101. Answering Paragraph 101 of the Complaint, Defendants deny
6 generally and specifically each and every allegation contained therein.

7 **Plaintiff's Fourth Claim for Relief**

8 103. Answering Paragraph 103 of the Complaint, Defendants deny
9 generally and specifically each and every allegation contained therein.

10 104. Answering Paragraph 104 of the Complaint, Defendants deny
11 generally and specifically each and every allegation contained therein.

12 105. Answering Paragraph 105 of the Complaint, Defendants deny
13 generally and specifically each and every allegation contained therein.

14 106. Answering Paragraph 106 of the Complaint, Defendants deny
15 generally and specifically each and every allegation contained therein.

16 **Plaintiff's Fifth Claim for Relief**

17 108. Answering Paragraph 108 of the Complaint, Defendants deny
18 generally and specifically each and every allegation contained therein.

19 109. Answering Paragraph 109 of the Complaint, Defendants deny
20 generally and specifically each and every allegation contained therein.

21 110. Answering Paragraph 110 of the Complaint, Defendants deny
22 generally and specifically each and every allegation contained therein.

23 111. Answering Paragraph 111 of the Complaint, Defendants deny
24 generally and specifically each and every allegation contained therein.

25 112. Answering Paragraph 112 of the Complaint, Defendants deny
26 generally and specifically each and every allegation contained therein.

27 112. Answering Paragraph 112 of the Complaint, Defendants deny
28 generally and specifically each and every allegation contained therein.

Plaintiff's Sixth Claim for Relief

114. Answering Paragraph 114 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

115. Answering Paragraph 115 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

116. Answering Paragraph 116 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

117. Answering Paragraph 117 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

118. Answering Paragraph 118 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

119. Answering Paragraph 119 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

120. Answering Paragraph 120 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

121. Answering Paragraph 121 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

122. Answering Paragraph 122 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

123. Answering Paragraph 123 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

Plaintiff's Seventh Claim for Relief

125. Answering Paragraph 125 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

126. Answering Paragraph 126 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

1 127. Answering Paragraph 127 of the Complaint, Defendants deny
2 generally and specifically each and every allegation contained therein.

3 **Plaintiff's Eighth Claim for Relief**

4 129. Answering Paragraph 129 of the Complaint, Defendants deny
5 generally and specifically each and every allegation contained therein.

6 130. Answering Paragraph 130 of the Complaint, Defendants deny
7 generally and specifically each and every allegation contained therein.

8 131. Answering Paragraph 131 of the Complaint, Defendants deny
9 generally and specifically each and every allegation contained therein.

10 132. Answering Paragraph 132 of the Complaint, Defendants deny
11 generally and specifically each and every allegation contained therein.

12 133. Answering Paragraph 133 of the Complaint, Defendants deny
13 generally and specifically each and every allegation contained therein.

14 134. Answering Paragraph 134 of the Complaint, Defendants deny
15 generally and specifically each and every allegation contained therein.

16 135. Answering Paragraph 135 of the Complaint, Defendants deny
17 generally and specifically each and every allegation contained therein.

18 **Plaintiff's Ninth Claim for Relief**

19 137. Answering Paragraph 137 of the Complaint, Defendants deny
20 generally and specifically each and every allegation contained therein.

21 138. Answering Paragraph 138 of the Complaint, Defendants deny
22 generally and specifically each and every allegation contained therein.

23 139. Answering Paragraph 139 of the Complaint, Defendants deny
24 generally and specifically each and every allegation contained therein.

25 140. Answering Paragraph 140 of the Complaint, Defendants deny
26 generally and specifically each and every allegation contained therein.
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1 141. Answering Paragraph 141 of the Complaint, Defendants deny
2 generally and specifically each and every allegation contained therein.

3 142. Answering Paragraph 142 of the Complaint, Defendants deny
4 generally and specifically each and every allegation contained therein.

5 **Plaintiff's Tenth Claim for Relief**

6 144. Answering Paragraph 144 of the Complaint, Defendants deny
7 generally and specifically each and every allegation contained therein.

8 145. Answering Paragraph 145 of the Complaint, Defendants deny
9 generally and specifically each and every allegation contained therein.

10 146. Answering Paragraph 146 of the Complaint, Defendants deny
11 generally and specifically each and every allegation contained therein.

12 147. Answering Paragraph 147 of the Complaint, Defendants deny
13 generally and specifically each and every allegation contained therein.

14 148. Answering Paragraph 148 of the Complaint, Defendants deny
15 generally and specifically each and every allegation contained therein.

16 149. Answering Paragraph 147 of the Complaint, Defendants deny
17 generally and specifically each and every allegation contained therein.

18 150. Answering Paragraph 148 of the Complaint, Defendants deny
19 generally and specifically each and every allegation contained therein.

20 **Plaintiff's Eleventh Claim for Relief**

21 152. Answering Paragraph 152 of the Complaint, Defendants do not have
22 sufficient information or belief to enable them to answer said Paragraph and, on
23 that ground, deny each and every allegation contained therein.

24 153. Answering Paragraph 153 of the Complaint, Defendants do not have
25 sufficient information or belief to enable them to answer said Paragraph and, on
26 that ground, deny each and every allegation contained therein.
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1 154. Answering Paragraph 154 of the Complaint, Defendants do not have
2 sufficient information or belief to enable them to answer said Paragraph and, on
3 that ground, deny each and every allegation contained therein.

4 155. Answering Paragraph 155 of the Complaint, Defendants do not have
5 sufficient information or belief to enable them to answer said Paragraph and, on
6 that ground, deny each and every allegation contained therein.

7 156. Answering Paragraph 156 of the Complaint, Defendants do not have
8 sufficient information or belief to enable them to answer said Paragraph and, on
9 that ground, deny each and every allegation contained therein.

10
11 **Plaintiff's Twelfth Claim for Relief**

12 158. Answering Paragraph 158 of the Complaint, Defendants do not have
13 sufficient information or belief to enable them to answer said Paragraph and, on
14 that ground, deny each and every allegation contained therein.

15 159. Answering Paragraph 159 of the Complaint, Defendants do not have
16 sufficient information or belief to enable them to answer said Paragraph and, on
17 that ground, deny each and every allegation contained therein.

18 160. Answering Paragraph 160 of the Complaint, Defendants do not have
19 sufficient information or belief to enable them to answer said Paragraph and, on
20 that ground, deny each and every allegation contained therein.

21 161. Answering Paragraph 161 of the Complaint, Defendants do not have
22 sufficient information or belief to enable them to answer said Paragraph and, on
23 that ground, deny each and every allegation contained therein.

24
25 **Plaintiff's Thirteenth Claim for Relief**

26 162. Answering Paragraph 162 of the Complaint, Defendants do not have
27 sufficient information or belief to enable them to answer said Paragraph and, on
28 that ground, deny each and every allegation contained therein.

1 163. Answering Paragraph 163 of the Complaint, Defendants do not have
2 sufficient information or belief to enable them to answer said Paragraph and, on
3 that ground, deny each and every allegation contained therein.

4 164. Answering Paragraph 164 of the Complaint, Defendants do not have
5 sufficient information or belief to enable them to answer said Paragraph and, on
6 that ground, deny each and every allegation contained therein.

7 165. Answering Paragraph 165 of the Complaint, Defendants do not have
8 sufficient information or belief to enable them to answer said Paragraph and, on
9 that ground, deny each and every allegation contained therein.

10 166. Answering Paragraph 166 of the Complaint, Defendants do not have
11 sufficient information or belief to enable them to answer said Paragraph and, on
12 that ground, deny each and every allegation contained therein.

13
14 **Plaintiff's Fourteenth Claim for Relief**

15 168. Answering Paragraph 168 of the Complaint, Defendants deny
16 generally and specifically each and every allegation contained therein.

17 169. Answering Paragraph 169 of the Complaint, Defendants deny
18 generally and specifically each and every allegation contained therein.

19 **Plaintiff's Fifteenth Claim for Relief**

20 171. Answering Paragraph 171 of the Complaint, Defendants deny
21 generally and specifically each and every allegation contained therein.

22 172. Answering Paragraph 172 of the Complaint, Defendants deny
23 generally and specifically each and every allegation contained therein.

24 173. Answering Paragraph 173 of the Complaint, Defendants do not have
25 sufficient information or belief to enable them to answer said Paragraph and, on
26 that ground, deny each and every allegation contained therein.

27 174. Answering Paragraph 174 of the Complaint, Defendants deny
28 generally and specifically each and every allegation contained therein.

1 175. Answering Paragraph 175 of the Complaint, Defendants deny
2 generally and specifically each and every allegation contained therein.

3 176. Answering Paragraph 176 of the Complaint, Defendants deny
4 generally and specifically each and every allegation contained therein.

5 **Plaintiff's Sixteenth Claim for Relief**

6 178. Answering Paragraph 178 of the Complaint, Defendants deny
7 generally and specifically each and every allegation contained therein.

8 179. Answering Paragraph 179 of the Complaint, Defendants deny
9 generally and specifically each and every allegation contained therein.

10 180. Answering Paragraph 180 of the Complaint, Defendants deny
11 generally and specifically each and every allegation contained therein.

12 181. Answering Paragraph 181 of the Complaint, Defendants deny
13 generally and specifically each and every allegation contained therein.

14 182. Answering Paragraph 182 of the Complaint, Defendants deny
15 generally and specifically each and every allegation contained therein.

16 **Plaintiff's Seventeenth Claim for Relief**

17 184. Answering Paragraph 184 of the Complaint, Defendants deny
18 generally and specifically each and every allegation contained therein.

19 185. Answering Paragraph 185 of the Complaint, Defendants deny
20 generally and specifically each and every allegation contained therein.

21 186. Answering Paragraph 186 of the Complaint, Defendants deny
22 generally and specifically each and every allegation contained therein.

23 **Plaintiff's Eighteenth Claim for Relief**

24 188. Answering Paragraph 188 of the Complaint, Defendants do not have
25 sufficient information or belief to enable them to answer said Paragraph and, on
26 that ground, deny each and every allegation contained therein.
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189. Answering Paragraph 189 of the Complaint, Defendants do not have sufficient information or belief to enable them to answer said Paragraph and, on that ground, deny each and every allegation contained therein.

190. Answering Paragraph 190 of the Complaint, Defendants do not have sufficient information or belief to enable them to answer said Paragraph and, on that ground, deny each and every allegation contained therein.

191. Answering Paragraph 191 of the Complaint, Defendants do not have sufficient information or belief to enable them to answer said Paragraph and, on that ground, deny each and every allegation contained therein.

Plaintiff's Nineteenth Claim for Relief

193. Answering Paragraph 193 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

194. Answering Paragraph 194 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

195. Answering Paragraph 195 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

196. Answering Paragraph 196 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

Plaintiff's Twentieth Claim for Relief

198. Answering Paragraph 198 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

199. Answering Paragraph 199 of the Complaint, Defendants deny generally and specifically each and every allegation contained therein.

AFFIRMATIVE DEFENSES

First Affirmative Defense

200. Plaintiffs' Complaint fails to state a cause of action against these Defendants.

1 201. Plaintiffs' First Claim for Trademark Infringement, Second Claim for
2 False Designation of Origin, Third Claim for Trade Dress Infringement, Fourth
3 Claim for Contributory Trademark Infringement, Fifth Claim for Contributory
4 False Designation of Origin, Sixth Claim for Trade Dress Infringement, and
5 Seventh Claim for California Common Law Trademark Infringement all fail to
6 state a claim because the complaint fails to plead facts establishing non-
7 functionality and fails to plead facts establishing that their label has acquired
8 secondary meaning.

9 202. Plaintiffs' Eighth Claim for Copyright Infringement and Ninth Claim
10 for Contributory Copyright Infringement both fail to state a claim because the
11 pictures used on the bottles are visibly and noticeably different and the copyright
12 was filed on April 25, 2016, which was weeks after the Defendants' label had
13 already been designed and sent to the printers.

14 203. Plaintiffs' Tenth Claim for Fraud, Sixteenth Claim for Conversion,
15 Seventeenth Claim for Conversion all fail to state a claim because from January 21
16 to March 2016, LE advanced to US NUTRILABS at least \$428,910.00 for bottles
17 of Cordyceps 950, but US NUTRILABS provided to LE less than 10,000 bottles of
18 the required 30,000 pursuant to the Exclusivity Agreement. Therefore, Plaintiffs
19 owed Defendants a substantial amount of money and the \$45,000 "loan" was not a
20 loan at all, but a demand from LE that STRONG pay him back some of the money
21 that he had paid for bottles of Cordyceps 950 that were never produced to him.
22 Furthermore, LE had paid US Nutrilabs approximately \$428,910.00 for bottles of
23 Cordyceps 950, far in excess of value of the \$187,650 in products delivered to LE
24 in March of 2016. Even after the \$45,000 of the "March loans" and the "\$187,650"
25 of the March 2016 delivery and deducted from the amount advanced by LE to US
26 Nutrilabs and to STRONG, he is still owed a considerable amount of money to be
27 determined at trial.
28

204. Plaintiffs' Fourteenth Claim for Breach of Contract and Fifteenth Claim for Breach of Implied Covenant of Good Faith and Fair Dealing both fail to state a claim because LE had paid US Nutrilabs approximately \$428,910.00 for bottles of Cordyceps 950, far in excess of value of the \$187,650 in products delivered to LE in March of 2016. Additionally, the Exclusivity Agreement does not contain any non-compete clause within its four corners and LE fully intended to sell both lines of cordyceps, his own line of Cordyceps HL as well as US Nutrilab's line of Cordyceps 950 providing that STRONG cease and desist from selling Cordyceps 950 to unauthorized distributors in violation of the Exclusivity Agreement.

Second Affirmative Defense

206. Any injury to Plaintiffs was due to and caused by the negligence and/or omissions of Plaintiffs to care for themselves, which carelessness and/or negligence and/or omissions were the proximate cause of the damage, if any, to Plaintiffs.

1 207. Any damage suffered by Plaintiffs can be attributed to his own
2 wrongful conduct, which brought about whatever damages Plaintiffs now allege
3 they have suffered.

4 **Third Affirmative Defense**

5 208. To the extent that Plaintiffs suffered any detriment, such detriment
6 was caused or contributed to by Plaintiffs' negligence and damage, if any, should
7 be reduced in direct proportion to their fault.

8 209. Any damage suffered by Plaintiffs can be attributed to his own
9 wrongful conduct, which brought about whatever damages Plaintiffs now allege
10 they have suffered.

11 **Fourth Affirmative Defense**

12 210. The injuries and damages alleged by Plaintiffs, if any, were
13 proximately caused by the negligence, conduct and liability of other persons or
14 entities, and these answering Defendants request that an allocation of such
15 negligence, conduct and liability be made among such other persons or entities,
16 and that, if any liability is found on the part of these Defendants, judgment against
17 these Defendants be only in an amount which is proportionate to the extent and
18 percentage by which these answering Defendants' acts or omissions contributed to
19 Plaintiffs' injuries or damages, if at all.

20 **Fifth Affirmative Defense**

21 211. The negligence of a third-party or parties was a superseding,
22 intervening cause of Plaintiffs' injuries.

23 **Sixth Affirmative Defense**

24 212. Plaintiff failed to mitigate his damages.

25 **Seventh Affirmative Defense**

26 213. Plaintiffs' claims and requests for relief are barred, in whole or in part,
27 by the doctrine of unclean hands.
28

1 214. Any damage suffered by Plaintiffs can be attributed to his own
2 wrongful conduct, which brought about whatever damages Plaintiffs now allege
3 they have suffered. Plaintiff committed many wrongful actions, which are
4 enumerated in the Counterclaim below and should therefore be barred under the
5 doctrine of unclean hands.

6 **Eighth Affirmative Defense**

7 215. Plaintiffs' claims and requests for relief are barred, in whole or in part,
8 by the doctrine of laches.

9 **Ninth Affirmative Defense**

10 216. Plaintiffs' claims and requests for relief are barred, in whole or in part,
11 by waiver.

12 **Tenth Affirmative Defense**

13 217. Plaintiffs' claims and requests for relief are barred, in whole or in part,
14 by the doctrine of estoppel.

15 **Eleventh Affirmative Defense**

16 218. Plaintiffs' claims and requests for relief are barred, in whole or in part,
17 by the doctrine of judicial estoppel.

18 **Twelfth Affirmative Defense**

19 219. Plaintiffs' claims and requests for relief are barred, in whole or in part,
20 by one or more provisions contained in the agreement.

21 **Thirteenth Affirmative Defense**

22 220. Plaintiffs' claims and requests for relief are barred, in whole or in part,
23 due to the course of dealing between Plaintiffs and Defendants.

24 **Fourteenth Affirmative Defense**

25 221. Plaintiffs' claims and requests for relief are barred, in whole or in part,
26 by fraud as stated in the Counterclaim below.
27
28

Fifteenth Affirmative Defense

222. Plaintiffs' claims and requests for relief are barred, in whole or in part, by fraudulent inducement as stated in the Counterclaim below.

Sixteenth Affirmative Defense

223. Plaintiffs' claims and requests for relief are barred, in whole or in part, by the setoff Defendants are entitled to receive as a result of the Counterclaims and Third Party Complaint, the allegations of which are incorporated below.

Seventeenth Affirmative Defense

224. As and for a seventeenth, separate, and affirmative defense to the complaint, and each cause of action thereof, it is alleged that by asserting the affirmative defenses contained herein, Defendants are not knowingly and voluntarily waiving of any applicable affirmative defenses. Defendants explicitly reserve the right to assert and rely on such other applicable affirmative defenses as may become available or apparent during the course of this action, and hereby reserves the right to amend this answer to assert such other defenses to which it may be entitled.

WHEREFORE, the answering Defendants pray for judgment as follows:

1. Plaintiffs take nothing by this action;
2. A judgment of dismissal be entered in favor of Defendants;
3. Defendants be awarded the costs of suit and attorneys' fees incurred;
and
4. Defendants, be awarded any other and further relief the court considers proper.